TRAI'S power curtailed by TDSAT

320. SHRI NILOTPAL BASU: Will the Minister of COMMUNICATIONS AND INFORMATION TECHNOLOGY be pleased to state:

(a) whether there is any TDSAT judgement, which prevents TRAI from enforcing its own regulations orders and decision passed under Section 11 of the TRAI Act;

(b) whether there is any TDSAT judgement, which prevents TRAI from either *suo motu* or on the basis of a complaint, instituting an investigation under Section 12 of the TRAI Act;

(c) if so, which are these judgements and what is TRAI planning to do about it; and

(d) whether TRAI's powers with regard to the above have been curtailed by the TDSAT in any way or manner?

THE MINISTER OF STATE IN THE MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (DR. SHAKEEL AHMAD): (a) TDSAT in its judgement dated 13.5.2003 in BPL Mobile Cellular Limited vs. TRAI had clarified that in terms of Section 13 of the TRAI Act, TRAI had power to issue direction only in respect of matters specified in Section 11 (1) (b) of the Act. The Telecom Tariff Order 1999, the order under dispute, was issued in exercise of powers conferred under Section 11(2) of the Act and not under Section 11(1) (b), therefore, as per TDSAT's judgement violation of reporting requirement prescribed under Telecommunications Tariff Order 1999 was not actionable under Section 29 read with Section 34 of the Act.

Afterwards, TDSAT in its judgement dated 21.4.2004 in the case of BSNL vs. TRAI (appeal NO 2 of 2004) and subsequent order in the Review Petition filed by TRAI, had *inter-alia* clarified that TRAI has authority under clause (b) of sub-section (1) of Section 11 to fix the terms and conditions of interconnectivity between the service providers and to ensure technical compatibility and effective interconnection between services providers. However, if dispute arises between the service providers on the terms and

conditions of interconnectivity between the service providers as fixed by TRAI, TDSAT has power to pass even *ex-parte* interim orders to stop any threatened disruption of telecom services.

(b) No, Sir.

(c) Details have been given at (a) above. TRAI has appealed to Supreme Court against the above decisions of TDSAT.

(d) No, Sir. Powers of TRAI have only been clarified by TDSAT *vide* its judgement.

installation of BTS towers in Eastern U.P.

†321. SHRI DARA SINGH CHAUHAN: Will the Minister of COMMUNICATIONS AND INFORMATION TECHNOLOGY be pleased to state:

(a) the reasons for not achieving the desired success in the Governments efforts to provide telephone in the rural areas of eastern Uttar Pradesh;

(b) whether it is a fact that the work relating to installation of BTS towers in the districts of Azamgarh, Mau, Suitanpur, Faizabad and Jaunpur is going on at a snail's pace and the existing exchanges are almost non-operational;

(c) the details of operational BTS towers in the above districts; and the locations where towers are likely to be installed in the near future;

(d) whether Government propose to bring almost all the populations of the above districts within the ambit of either mobile or landline telephones; and

(e) if so, the details thereof?

THE MINISTER OF STATE IN THE MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (DR. SHAKEELAHMAD): (a) Desired success in providing telephone could not be achieved due to non-availability of Fixed Wireless Telephones (FWTs), underground cables and commercial supply of electricity.

(b) No. Sir. All the Code Division Multiplex Access (CDMA) Base Terminal

† Original notice of the question was received in Hindi.